

**DEPARTMENT OF HEALTH SERVICES  
DIVISION OF LICENSING SERVICES  
SUBSTANTIVE POLICY STATEMENTS  
#SP-026-DLS-OAD**

**CLARIFICATION OF FINGERPRINTING REQUIREMENTS FOR  
RESIDENTIAL CARE INSTITUTIONS, NURSING CARE INSTITUTIONS AND  
HOME HEALTH AGENCIES**

*This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with Arizona Administrative Procedure Act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties, you may petition the agency under Arizona Revised Statutes Section 41-1033 for a review of the statement.*

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The purpose of this substantive policy statement is to clarify who must be fingerprinted as a condition of employment or before beginning volunteer work in a residential care institution, nursing care institution, or home health agency.

A.R.S. § 36-411 (A) requires that

Subject to legislative appropriations, as a condition of licensure or continued licensure of a residential care institution, a nursing care institution or a home health agency and as a condition of employment in a residential care institution, a nursing care institution or a home health agency, employees and owners of residential care institutions, nursing care institutions or home health agencies or contracted persons who provide direct care, home health services or supportive services and who have not been subject to the fingerprinting requirements of a health professional's regulatory board pursuant to title 32<sup>1</sup> shall have valid fingerprint clearance cards that are issued pursuant to title 41, chapter 12, article 3.1 or shall apply for a fingerprint clearance within twenty working days of employment or beginning volunteer work except as provided in subsections F, G and H of this section.

Residential care institutions and nursing care institutions

Under A.R.S. § 36-411 (E), a person or contracted person providing direct care who has been denied a fingerprint clearance card or has not received an interim approval from the board of fingerprinting shall not continue to provide direct care. Direct care is defined in A.A.C. R9-10-901 (24) as medical services, nursing services, or medically-related social

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<sup>1</sup> A health professional who has been previously fingerprinted as a condition of licensure or certification under title 32 is not required to submit an additional set of fingerprints to the department under A.R.S. 36-411 (B).

services as defined in A.A.C. R9-10-901 (49) provided to a resident in a nursing care institution. In a residential care institution, the Department interprets direct care as medical services, nursing services, or health-related services as defined in A.A.C. R9-10-101 (25) provided to a resident.

The Department views direct care as requiring hands-on contact with a resident for the purpose of providing medical, nursing, or health-related services in a residential care institution, or providing medical, nursing, or medically-related social services in a nursing care institution. A person providing direct care in a residential care institution or nursing care institution must have a fingerprint clearance card. The person may be an employee of the facility or contracted by the facility to provide direct care. A volunteer who provides direct care must have a fingerprint clearance card unless the volunteer provides direct care under the direct visual supervision of an owner or employee with valid fingerprint clearance.

Additionally, a person whose primary job responsibilities do not include direct care but who occasionally provides direct care must have a fingerprint clearance card. For instance, if a dietary staff member occasionally feeds a resident, then the dietary staff member must have a fingerprint clearance card because feeding a resident is providing direct care.

Examples of staff who must be fingerprinted include:

- RNs, LPNs, CNAs, NAs, and caregivers employed by the facility
- Physical, respiratory, occupational and speech therapists and therapy staff
- Massage Therapists (unless directly contracted by patient/resident)
- Social Worker (unless directly contracted by patient/resident)
- Activity staff in nursing care institutions
- Persons having a contract with the facility to provide direct care
- Contracted staff, such as RNs, LPNs, CNAs, NAs, caregivers, physical, respiratory, occupational and speech therapists and therapy staff, and massage therapists (unless directly contracted by patient/resident)<sup>2</sup>

Examples of staff who are not required to be fingerprinted include:

- Van driver
- Clergy
- Housekeeper/Maintenance/Groundskeeper/Laundry
- Dietitian/Dietary staff (unless providing direct care)
- Beautician
- Administrator/Manager (unless providing direct care)
- Activity staff in assisted living facilities and adult day health care centers
- Persons having a contract with a resident or patient to provide direct care to the resident or patient.

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<sup>2</sup> Proof of timely application to DPS and/or fingerprint clearance card does not have to be available on-site at the time of request during an inspection, but must be made available within the inspection period or shortly thereafter.

- Volunteers who provide services under the direct visual supervision of a previously fingerprinted owner or employee.
- Therapists and therapy staff contracted by the resident/patient
- Hospice nurses, employees and volunteers

When a resident of a residential care institution receives home health services, the residential care institution is not required to maintain verification of the home health agency's compliance. This is monitored through the licensing process for home health agencies.

#### Home health agencies

Under A.R.S. § 36-411 (E), a person or contracted person providing home health services or supportive services shall not provide those services if the person has been denied a fingerprint clearance card. Home health services and supportive services are defined under A.R.S. § 36-151 (3) and (6), respectively. Therefore, any person providing home health services or supportive services, either for a home health agency or under an arrangement with a home health agency, must have a fingerprint clearance card.

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